



**Americans with Disabilities Act (ADA)
Plan**

October 2012

Table of Contents

| | |
|---|-----------|
| I. BACKGROUND | 1 |
| II. ADA COORDINATOR | 1 |
| III. DEFINITIONS | 1 |
| IV. Public Participation | 4 |
| V. Selection and Prioritization of Barrier Removal | |
| 1. Barriers to be Addressed | 4 |
| 2. General Prioritization Standards | 5 |
| 3. Annual Selection Process | 5 |
| VI. FUNDING | 6 |
| 1. Leveraging Additional Funding Sources and City Programs | 6 |
| 2. Additional Funding | 6 |
| 3. Annual Fund | 6 |
| VII. RIGHT OF WAY ACCESSIBILITY | 6 |
| 1. Street Overlays and Reconstruction | 6 |
| 2. Dedicated Funding | 6 |
| 3. City Monitoring of New Permitted Development/ Alterations | 6 |
| 4. City Monitoring of Permitted Work to Existing Driveways | 7 |
| 5. Sidewalk Maintenance Program | 7 |
| 6. Preventative Efforts to Deter Movable Barriers | 7 |
| 7. Slurry Seal Requirement | 7 |
| VIII. REPORTS AND MONITORING | 7 |
| 1. Annual Report | 7 |
| 2. Monitoring Report | 8 |
| IX. ACCOMMODATION AND GRIEVANCE | 9 |
| 1. Requesting an ADA Accommodation | 9 |
| 2. Filing an ADA Grievance | 9 |
| 3. Accommodation and Grievance Response | 10 |

| | | |
|-------------------|---|-----------|
| Appendix A | ADA Request for Accommodation Form | 11 |
| Appendix B | ADA Grievance Form | 13 |
| Appendix C | ADA Priority Ranking Worksheet | 15 |
| Appendix D | ADA Monitoring Report | 17 |

I. BACKGROUND

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, providing comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations and State and local government services.

Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in program, activities and services provided or operated by all State and local governments.

Title II, mandates that a public entity evaluate its current services, policies and practices to determine whether they are in compliance with the non-discrimination regulations of the ADA. A self-evaluation is required and intended to examine programs, activities and services, identify problems or physical barriers that may limit accessibility by the disabled and describe potential compliance solutions.

II. ADA COORDINATOR

The City Manager has designated the City Engineer as the ADA Coordinator. This position is responsible for ensuring that all programs, services, and activities of the City of National City are accessible to and usable by individuals with disabilities. The City's ADA Coordinator is:

City Engineer
City of National City
1243 National City Blvd
National City, CA 91950
(619) 336-4380 Office
(619) 336-4397 Fax

To request an ADA accommodation or file an ADA grievance, contact the ADA Coordinator and follow the established procedures outlined in Section IX.

III. DEFINITIONS

As used in this Plan, the following terms shall have the meaning ascribed to them in this Section, which are consistent with the provisions of existing federal and state law, including the regulations promulgated thereunder. Except to the extent expressly stated to the contrary, any term not expressly defined in this Section or elsewhere in this Plan that has an expressly defined meaning in either the ADA or the regulations promulgated thereunder ("Regulations") shall have the meaning ascribed to it by the ADA or the Regulations, in that order of preference. All other terms shall be interpreted according to their plain and ordinary meaning.

ADA/ADAAG: "ADA" means and refers to the Americans with Disabilities Act as contained at 42 U.S.C. § 12101 et seq. "ADAAG" means and refers to the Americans with Disabilities Act Access Guidelines, codified at Appendix A to 28 Code of Federal Regulations Part 36 and at Appendix A to 49 Code of Federal Regulations Part 37. "ADAAG Standards" means and refers to physical conditions that meet the new construction and/or alterations standards set forth in ADAAG.

Compliance Period: "Compliance Period" means and refers to the period of time for which this Plan will be in effect. The Plan shall become effective upon Final Approval, and remain in effect for up to 10 years. The City may dissolve the Plan at any time upon a showing that it provides Program Access to Pedestrian Rights of Way or upon a showing that it has met or exceeded the monetary obligations specified in this Plan. Alternatively, the Plan will remain in effect until it dissolves automatically 10 years after Final Approval by City Council.

Compliant Curb Ramp: "Compliant Curb Ramp" means and refers to a curb ramp that is constructed to comply with state and/or federal law (whichever provides the higher access standard) in place at the time of construction. In the case of a location where it is Structurally Impracticable or Technically Infeasible to build a fully compliant curb ramp, or where construction of a fully compliant curb ramp would constitute a Fundamental Alteration of a service, program, or activity of the City of National City or an Undue Burden on the City of National City, a curb ramp that complies with access standards, or was constructed to the standards existing at the time of construction, or to the maximum extent feasible, will constitute a Compliant Curb Ramp as long as the requirements set forth in this Plan for justifying the reasons for the City to avoid full compliance are met.

Curb Ramp: "Curb Ramp" is used interchangeably with "curb cut."

Detectable Warnings: "Detectable Warnings" means and refers to truncated domes which provide a tactile surface at the transition between the curb and the street, assisting pedestrians with Vision Disabilities in determining when they enter the street.

Final Approval: "Final Approval" means and refers to the date when the City Council approves the "Americans with Disabilities Act (ADA) Plan" for the City of National City.

Fundamental Alteration: "Fundamental Alteration" means and refers to an action that, if taken by the City of National City, would result in a fundamental alteration in the nature of the service, program or activity of Pedestrian Rights of Way in the City of National City. If the City claims that any action otherwise required by this Plan would constitute a Fundamental Alteration, the City shall have to demonstrate that such alteration would result, and the decision that an action would constitute a Fundamental Alteration must be made by the City Engineer, or his or her designee, after considering all funds available for such work, and must be accompanied by a written statement of

the reasons for reaching that conclusion.

Mobility Disability: "Mobility Disability" means and refers, with respect to an individual, to any physical or mental impairment or condition that substantially limits an individual's ability to move his or her body or a portion of his or her body and includes, but is not limited to, orthopedic and neuromotor disabilities and any other impairment or condition that limits an individual's ability to walk, maneuver around objects, ascend or descend steps or slopes, and operate controls. An individual with a Mobility Disability may use a wheelchair or motorized scooter for mobility, or may be Semi-Ambulatory.

Pedestrian Rights of Way: "Pedestrian Rights of Way" means and refers to all sidewalks over which the City of National City has responsibility or authority as well as all Curb Ramps and crosswalks serving such sidewalks and any other pathways used by pedestrians along public rights of way, including pedestrian pathways through public parking lots.

Statutory Defenses: "Statutory Defenses" means and refers to the City's right to assert under this Plan that removal of any barrier or installation of a Compliant Curb Ramp is not required because such barrier removal or curb ramp installation would be Technically Infeasible, or Structurally Impracticable, or that it would constitute an Undue Burden or Fundamental Alteration.

Structurally Impracticable: Structurally Impracticable means and refers to circumstances in which the unique characteristics of terrain prevent the incorporation of accessibility features. If it is structurally impracticable to provide full access at any location along pedestrian rights of way, the City shall comply with access requirements to the extent that it is not structurally impracticable to do so. (See ADAAG § 4.1.1(5)(a)).

Technically Infeasible: "Technically Infeasible" means, with respect to an alteration of a building, facility or Pedestrian Right of Way, that it has little likelihood of being accomplished because existing physical or site constraints or a lack of public right of way prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility (See ADAAG § 4.1.6(1)(j)).

Title 24: "Title 24" means and refers to the regulations set forth at Title 24 of the California Code of Regulations.

Undue Burden: "Undue Burden" means and refers to an action that, if taken by the City of National City, would result in an undue financial and administrative burden. In order to demonstrate that removal of a barrier would constitute an Undue Burden, the decision must be made by the City Engineer, or his or her designee, after considering all resources available from the City Engineer Fund, and any other source of funding

identified in this Agreement available for removal of sidewalk barriers, and must be accompanied by a written statement of the reasons for reaching that conclusion. In preparing such a statement, the City Engineer or designee may consider the usability of the existing facilities.

IV. Public Participation

The City of National City will hold workshops to discuss ADA issues and to review proposed projects. The workshops will be publically noticed and open to the public for comments.

V. Selection and Prioritization of Barrier Removal

The City Engineer shall make recommendations regarding barrier removal projects to be prioritized and funded from the funds available. The recommendations of the City Engineer shall be made available for public comments. The City Engineer shall have final authority over the approval and authorization of projects; however the City Engineer will not unreasonably disregard the recommendations of the public. The City Engineer is charged with specific responsibilities under this Plan related to barrier removal and access along the City's Pedestrian Rights of Way. For the life of this Plan, the City Engineer shall have ongoing responsibility for the following:

1. Barriers to be addressed

The funding may be used for the following projects: (1) Installing Compliant Curb Ramps, including Detectable Warnings (at intersections where there are no curb ramps or where existing curb ramps do not meet current access standards); (2) Removing abrupt changes of level, whether caused by tree roots or any other deterioration or displacement of the surface of the Pedestrian Rights of Way; (3) Providing accessible crosswalks (by providing appropriate contrasting striping, developing or maintaining a policy concerning audible pedestrian signals, providing accessible pedestrian crossing controls, and removing any abrupt changes in level affecting the path of travel across the street; crosswalk access does not require any effort to remove slopes or cross slopes consistent with the slope of the street for vehicle traffic and/or drainage); (4) Removing obstacles in the Pedestrian Rights of Way that narrow the pedestrian pathway to less than 32 inches; (5) Removing or providing Detectable Warnings for overhanging obstacles below 80 inches above the pedestrian rights of way that are not detectable to a blind pedestrian using a cane; and (6) Removing excessive cross slopes perpendicular to the primary direction of travel along the pedestrian rights of way, whether caused by driveways crossing the Pedestrian Right of Way or by any other reason.

2. General Prioritization Standards

ADA Title II requires that ADA improvements are prioritized based on citizen request, proximity to certain land uses and building types, and ongoing capital improvement projects. These factors are used by the City Engineer to prioritize projects. (1) Citizen's requests for installation of a Compliant Curb Ramp or removal of a specific barrier or barriers shall have the highest priority. After requests, priority will be given to Pedestrian Rights of Way serving (2) state and local government offices and facilities; (3) places of public accommodation such as commercial and business zones/Capital Improvement Projects; (4) major transportation corridors; and (5) other areas such as residential neighborhoods.

As outlined below, each criterion is weighted based on its importance, with 5 being the most important and 1 being the least important. Prioritization criteria and associated points are listed in the table below:

| Criteria | Points |
|---|--------|
| Citizen's requests for installation of a compliant curb ramp or removal of a specific barrier or barriers | 5 |
| Within 300 feet of State or Local government and public used facilities | 4 |
| Places of public accommodation (businesses)/CIP project | 3 |
| Major transportation corridor | 2 |
| Residential neighborhoods | 1 |

In all planned projects, consideration will also be given to the severity of existing barriers and overall efficiency of project work. The City Engineer has discretion to authorize the removal of barriers in lower priority categories before removing barriers in higher priority categories if they deem such prioritization to be a more effective or efficient use of barrier removal resources.

3. Annual Selection Process

Every year, the City Engineer shall select and prioritize a list of barrier removal projects using ADA Ranking Worksheet (Appendix C) no later than 45 days after the beginning of the new fiscal year. The list of barrier removal projects approved by the City Engineer will be included in the Annual Report. The list of barrier removal projects may be revised by the City Engineer as necessary, during the course of the fiscal year.

VI. Funding

1. Leveraging Additional Funding Sources and City Programs

The City Engineer shall confer with the Housing & Grants Division a minimum of one time per year to assess how to best leverage additional City funds, if any, and/or additional City Programs, if any, that can be used to install Compliant Curb Cuts or remove barriers along the City's Pedestrian Rights of Way.

2. Additional Funding

If any new, permanent, transportation funding source for street maintenance is created during the life of this Plan (through a ballot measure or otherwise), this additional revenue source will also be used to fund projects.

3. Annual Fund

In the event that the City allocates funds in excess of a project, in any given year, such excess funds will be credited toward its future obligations in each succeeding fiscal year if permitted by funding source.

VII. RIGHT OF WAY ACCESSIBILITY

1. Street Overlays and Reconstruction

Each time the City overlays or reconstructs a street, it will, subject to the availability of funding, ensure that Compliant Curb Ramps are installed at each intersection as part of the overlay project. This requirement does not pertain to slurry seals, cap seals, or base failure repairs.

2. Dedicated Funding

If the City obtains dedicated funding for any additional street overlays or reconstruction, it will ensure that Compliant Curb Ramps are installed at each intersection as part of the overlay or reconstruction project.

3. City Monitoring of New Permitted Development and Alterations

The City will monitor all permitted construction work approved after the Effective Date of this Plan affecting the Pedestrian Rights of Way to ensure that it conforms to the requirements set forth in this Plan. In any location where an access feature required under the terms of this Plan does not fully conform to access standards, and where the City claims that full compliance is not required due to any Statutory Defense, the City's explanation of its determination that full access is not required will be included and explained in the next Annual Report.

4. City Monitoring of Permitted Work to Existing Driveways

The City will monitor all permitted work for existing driveways. The City will not approve any permit to modify an existing driveway that would create an unreasonable cross-slope or worsen an existing cross-slope within the path of travel along Pedestrian Rights of Way.

5. Sidewalk Maintenance Program

Property owners are required to maintain their sidewalks in such a way that they do not impede public access, pose a safety hazard, endanger persons or property, or interfere with public convenience.

6. Preventative Efforts to Deter Movable Barriers

Subject to its discretionary authority under the provisions of California Government Code § 818.2, the City will take reasonable steps to prevent or deter the placement of movable barriers on sidewalks, which may, but need not include conducting public information campaigns through mailers, providing community information, and utilizing other avenues of communication recommended by the City Engineer. The City Engineer may consult with the City's Code Enforcement personnel to increase public awareness of issues related to access along the City's Pedestrian Rights of Way.

7. Slurry Seal Requirement

The City will include in any slurry sealing work or cap sealing work it performs, a requirement to look for excessive build up which can create an inaccessible "lip" in the curb ramp area and will grind down any such lips subject to the City's claim that such work is subject to any Statutory Defenses.

VIII. REPORTS AND MONITORING

1. Annual Report

At the conclusion of each fiscal year until the end of the Compliance Period, the City shall provide a report ("Annual Report") to the City Council describing the actual work done to implement this Plan during the previous twelve months and a prospective plan of projects the City plans on undertaking to improve access to Pedestrian Rights of Way in the upcoming year. The Annual Report will be completed within one hundred and twenty (120) days from the end of the fiscal year and will include:

1. A summary or listing of all written complaints or requests for removal of particular barriers received since the prior report, including information specifying whether the

City has taken action to remove the barrier.

2. Summaries of work done to ensure access and/or remove access barriers in conjunction with asphalt overlay projects, projects completed with Dedicated Funds and all ADA improvement projects.
3. A list of all barriers, if any, for which the City asserts that it has a Statutory Defense excusing installation of a Compliant Curb Ramp or removal of an access barrier. If the City asserts that it has a Statutory Defense that limits its ability to remove a barrier or to install a Curb Ramp that meets all current standards, the City will include in the report a written statement by the City Engineer (or his or her designee) providing the reasons for reaching that conclusion. To the extent that the City claims that installation of a fully compliant Curb Ramp or removal of an existing barrier would be an Undue Burden, the written statement will include his or her consideration of all resources available from the City Engineer Fund and any other source of funding set forth in this Agreement as available for the removal of access barriers.
4. Information regarding the removal of barriers along the Pedestrian Rights of Way from the City Engineer.
5. Information describing efforts made by the City or City Engineer to leverage additional programs or funding sources to install Compliant Curb Ramps or remove access barriers in the Pedestrian Rights of Way.
6. Information regarding efforts at Community Outreach, and any action being taken as a result of such community outreach.
7. Information documenting all barrier removal efforts accomplished in conjunction with Third Parties (such as utility companies).
8. A prospective plan of projects for the upcoming year based on the priority recommendations of the City's City Engineer; and approved by the City Engineer or his/her designee.
9. A Monitoring Report, as described below, for the first three years of the Compliance Period.

2. Monitoring Report

The City Engineer or designee will monitor the City's compliance with this Plan for a period of three years from the date of execution. The Engineer or designee will annually inspect locations within the Pedestrian Rights of Way at which barriers have been removed to ensure that such barrier removal is completed properly within acceptable tolerances and complete an ADA Monitoring Report (Appendix D). A

Monitoring Report shall be included in the report to Council requesting acceptance of the work for any projects that removes/replaces a barrier. A Monitoring Report Summary will be included as part of the Annual Report to City Council.

IX. ACCOMMODATION AND GRIEVANCE

1. Requesting an ADA Accommodation

The request for accommodation should be made and include the name, address and telephone number of the individual requesting the accommodation (see Appendix A for Request for Accommodation Form). The request should contain the location of the program, service, activity or facility where the accommodation is required and a description of why the accommodation is needed.

Complete the form and submit it to:

City of National City
City Engineer
1243 National City Blvd
National City, CA 91950

(619) 336-4380 (phone)
(619) 336-4397 (fax)

Within fifteen (15) calendar days of the written request, the ADA Coordinator will respond to the individual requesting the accommodation. If the response by the ADA Coordinator does not satisfactorily resolve the issue, the individual making the request may file a formal grievance with the responsible department(s). All requests for accommodation received by the ADA Coordinator will be kept by the City of National City for at least three (3) years.

2. Filing an ADA Grievance

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act (ADA). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of the disability in the provision of services, activities and programs by the City of National City.

a) Step 1 – The Written Complaint

The complaint should be in writing and contain information about the alleged discrimination such as name, address and phone number of the complainant and location, date and description of the problem (see Appendix B for Filing an ADA Grievance Form). Alternative means of filing complaints will be made available for

persons with disabilities upon request.

Contact the ADA Coordinator to request this information in an alternate format or the "Request for Accommodation" or "ADA Grievance" form. The complaint should be submitted by the complainant as soon as possible, but no later than ninety (90) calendar days after the alleged violation (or discovery thereof) to:

City of National City
1243 National City Blvd
National City, CA 91950
(619) 336-4380 (phone)
(619) 336-4397 (fax)

b) Step 2 – Meeting with the ADA Coordinator

Within fifteen (15) calendar days of the written complaint, the ADA Coordinator will meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the ADA Coordinator will respond in writing or in a format accessible to the complainant. The response will explain the position of the City of National City and offer options for resolution of the complaint.

c) Step 3 – Appeal to the City Manager

If the response by the ADA Coordinator does not satisfactorily resolve the issue, the complainant may appeal the decision, within fifteen (15) calendar days after receipt of the response, to the City Manager or an appointed representative.

Within fifteen (15) calendar days after receipt of the appeal, the City Manager, or an appointed representative, will meet the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the City Manager, or an appointed representative, will respond in writing or in a format accessible to the complainant of final resolutions to the complaint.

All written complaints received by the ADA Coordinator, appeals to the City Manager, and responses from the ADA Coordinator and the City Manager, will be kept by the City of National City for at least three (3) years.

3. Accommodation and Grievance Response

In responding to request(s) for structural improvement brought through the ADA Accommodation and Grievance process, the ADA Coordinator has limited funds. In the event that these allocated funds are insufficient or already spent, subsequent improvements will be prioritized and scheduled in subsequent fiscal years.

Appendix A
ADA Request for Accommodation Form



Title II of the Americans with Disabilities Act
Section 504 of the Rehabilitation Act of 1973

Request for Accommodation Form

Instructions: Please fill out this form completely, using black ink or typing. Sign and send for to the address at the bottom of the page. This form is available in alternate formats by request.

| | | |
|---|-----------|---|
| Name: | | |
| Address | | |
| City, State, ZIP Code: | | |
| Telephone Number(s) Home: () | Work: () | Cell: () |
| Email Address: | | |
| Name of City Service/Program or Facility | | |
| Address: | | |
| Date of Incident or Discovery: | | |
| Describe the reason for requiring the requested accommodations (please feel free to use additional attachments as necessary): | | |
| | | |
| | | |
| | | |
| Signature of Reporting Individual: | | Date: |
| <i>(Do not write below this line - for office Use only)</i> | | |
| Date of Review: | | Date of Action: |
| Action Taken: no <input type="checkbox"/> | | Submit to ADA Committee for next CIP project yes <input type="checkbox"/> |
| | | |
| | | |

Please mail or delivery this form to:
City Engineer, ADA Coordinator, City of National City 1243 National City Blvd, National City, CA 19150

Appendix B
ADA Grievance Form



Title II of the Americans with Disabilities Act
 Section 504 of the Rehabilitation Act of 1973

ADA Grievance Form

| | | | |
|---|-----------|-----------------|-----------|
| <i>Instructions: Please fill out this form completely, using black ink or typing. Sign and send for to the address at the bottom of the page. This form is available in alternate formats by request.</i> | | | |
| Name: | | | |
| Address | | | |
| City, State, ZIP Code: | | | |
| Telephone Number(s) | Home: () | Work: () | Cell: () |
| Email Address: | | | |
| Name of City Service/Program or Facility | | | |
| Address: | | | |
| Date of Incident or Discovery: | | | |
| Describe the way in which the service, program or facility is discriminatory (please feel free to use additional attachments as necessary): | | | |
| | | | |
| | | | |
| | | | |
| Signature of Reporting Individual: | | | Date: |
| <i>(Do not write below this line - for office Use only)</i> | | | |
| Date of Review: | | Date of Action: | |
| Action Taken: | | | |
| | | | |
| | | | |

Please mail or delivery this form to:

City Engineer, ADA Coordinator, City of National City 1243 National City Blvd, National City, CA 19150

Appendix C
ADA Ranking Worksheet



Priority Ranking Worksheet

Fiscal Year 20____ Program

Location: _____

- Physical Barrier: _____
- Pedestrian Ramp _____

Request by: _____
(Information from Request for Accommodation Form) DATE

Recommended Funding:

- CDBG Census Track: _____
- Gas Tax
- Prop A
- Other: _____

| Criteria | Points | Score |
|---|----------------|-------|
| Citizen's request | 5 | |
| Within 300 feet of State or Local government and public used facilities | 4 | |
| Major transportation corridor | 3 | |
| Places of public accommodation (businesses) | 2 | |
| Residential neighborhoods | 1 | |
| | Total Score | |

- Approved for program
- Deferred (Comment: _____)

City Engineer _____
Date

Appendix D
ADA Monitoring Report



ADA Monitoring Report Barriers Addressed

Specification# _____ **Project Title:** _____

1. (#____) **Compliant Curb Ramps**, including Detectable Warnings (at intersections where there are no curb ramps or where existing curb ramps do not meet current access standards)
2. (#____) **Removed abrupt changes of level**, whether caused by tree roots or any other deterioration or displacement of the surface of the Pedestrian Rights of Way
3. (#____) **Provided accessible crosswalks** (by providing appropriate contrasting striping, developing or maintaining a policy concerning audible pedestrian signals, providing accessible pedestrian crossing controls, and removing any abrupt changes in level affecting the path of travel across the street; crosswalk access does not require any effort to remove slopes or cross slopes consistent with the slope of the street for vehicle traffic and/or drainage)
4. (#____) **Removing obstacles** in the Pedestrian Rights of Way that narrow the pedestrian pathway to less than 32 inches.
5. (#____) **Removed or provided Detectable Warnings** for overhanging obstacles below 80 inches above the pedestrian rights of way that are not detectible to a blind pedestrian using a cane.
6. (#____) **Removed excessive cross slopes** perpendicular to the primary direction of travel along the pedestrian rights of way, whether caused by driveways crossing the Pedestrian Right of Way or by any other reason.

Location(s):

| Location, Intersection, Block | Corner or Side | Item | Amount | Type of Work |
|------------------------------------|----------------|----------|----------|-----------------|
| <i>Example 18th & Highland</i> | <i>all</i> | <i>1</i> | <i>4</i> | <i>Ped Ramp</i> |
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CC: ADA Annual Report file